IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1666 OF 2006
IN
SUIT NO.436 OF 2000

Ashok Kumar Agarwal ....Plaintiff
V/s.
Ravinder Kumar Agarwal & Ors. ....Defendants

Mr.Snehal Shah i/b Doijode Associates for the Plaintiff.

Mr.Mahesh Shukla i/b Desai & Diwanji for Defendant Nos.1 to 4.

Ms.V. Tamhane i/b R.D. Suvarna for Defendant Nos.9, 15, 19 to 23.

CORAM : S.J. VAZIFDAR, J.
DATED : 17TH JULY, 2007.

P.C. :

1. This Notice of Motion has been taken out by the Plaintiff under Order XXXIX Rule 5 of C.P.C. for striking out of the defence, for appointment of the Court Receiver and under order XXXIX Rule 2-A of the C.P.C.

2. The basis of this Notice of Motion is that despite the order of the Appellate Court dated 26.10.2001, Defendant No.1 had not filed accounts. Defendant No.1 contend that they receive the copy of the order only in December,2006. Even after that they

did not supply the accounts on the ground that their Chamber Summons for condonation of delay in filing the accounts is pending before the Appellate Court.

3. Mr.Shukla, the learned counsel appearing on behalf of Defendant No.1 stated at the out-set that the accounts were kept ready within two weeks of the receipt of the said order. The same however were not filed in court or and were not furnished to the Plaintiff as there was a delay on their part. He however, states that Defendant No.1 shall furnish a copy thereof to the Plaintiff’s advocate by this evening. The statement is accepted.

4. In view of the facts and circumstances of the case the Notice of Motion is accordingly disposed of.